IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

RPFC.No. 129 of 2003()

MC.156/2002 of FAMILY COURT, MANJERI

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REVISION PETITIONER/RESPONDENT:

PATTARUMADATHIL HANEEFA,
S/O. MUHAMMEDUNNI, AGED 40 YEARS, PONNANI TALUK,
KOLOLAB AMSOM, DESOM, KOLOLOMB P.O., EDAPPAL VIA.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS: PETITIONERS:

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1. KADEEJA, AGED 24 YEARS,
D/O. THALIMADATHIL KUNHAMMED, TIRUR TALUK,
KANMANAM AMSOM, VARANAKARA DESOM, P.O. KANMANAM,
MALAPPURAM DISTRICT.

2. ARSHAD, MINOR 8 YEARS,
S/O. KADEEJA 24 YEARS, D/O.THALIMADATHIL KUNHAMMED
TIRUR TALUK, KANMANAM AMSOM, VARANAKKARA DESOM,
P.O. KANMANAM, MALAPPURAM DISTRICT.

3. HASEENA, MINOR 5 YEARS,
D/O. KADEEJA 24 YEARS,D/O. THALIMADATHIL KUNHAMMED
TIRUR TALUK, KANMANAM AMSOM, VARANAKKARA DESOM,
P.O. KANMANAM, MALAPPURAM DISTRICT.

4. MUHAMMED NASEEBA, MINOR 4 YEARS,
S/O. KADEEJA 24 YEARS, D/O.THALIMADATHIL KUNHAMMED
TIRUR TALUK, KANMANAM AMSOM, VARANAKKARA DESOM,
P.O. KANMANAM, MALAPPURAM DISTARICT.
MINOR RESPONDENTS 2 TO 4 ARE REPRESENTED BY THEIR
MOTHER AND NEXT FRIEND THE 1ST RESPONDENT.

BY ADV. SRI.T.KRISHNAN UNNI

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

R.P.(C).No.129 of 2003

Dated this the 23rd day of October, 2007

O R D E R

The revision petitioner is the respondent/husband in M.C.No.156/02 the proceedings initiated by the first petitioner/ wife under Section 125 Crl.P.C.

2. The court below ordered the respondent/revision petitioner to pay maintenance at the rate of Rs.400/- per month to the first petitioner wife and at the rate of Rs.350/- per month to the petitioners 2 to 4.

3. The case of the petitioner is that after marriage in November 1993 they were living together and subsequently the respondent misappropriated gold ornaments belonging to her and when she demanded the same back he started to ill treat her and on the particular day she severely ill treated her and sent her to her house along with petitioners 2 and 3, the minor children. At the time she was carrying 4th petitioner. According to her, the respondent did not pay any maintenance to the petitioners. It is submitted that the respondent is a stone cutter

by profession and he earns Rs.7,500/- per month and also gets Rs.7,000/- from his properties. She had claimed maintenance at the rate of Rs.500/- per month. On the other hand, the respondent had contended that she had dissolved the marriage on 24.4.2001 in the presence of witnesses. According to him, at present he is not engaged in the profession of stone cutting and he is working as a domestic aid and his monthly earnings is only Rs.900/- and with this amount he has to protect his present wife, two children, aged father and sister. It is also alleged that the first petitioner is financially well of.

4. The evidence adduced in the matter consisted of the testimony of PW1, the petitioner, RWs' 1 to 3 who are the respondent and two witnesses.

5. The trial court has found that the evidence of RWs' 2 and 3 are not reliable as their version contained contradictions. Moreover, nothing more than oral version of RWs' 1 to 3 is before the court below to prove the case of the pronouncement of the thalak which is denied by the petitioner. In the absence of any objective evidence produced in this regard, I find that on the

above point decided by the court below no interference is called for.

5. I find that the amount ordered to be paid as monthly maintenance is only at the rate of Rs.400/- to the first petitioner and Rs.350/- to the three minor children.

6. I find that the amount ordered is quite reasonable if not on the lower side. No interference is called for.

The revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl